

CHAPTER V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2006-07 revealed non-assessment/underassessment of revenue and non-raising of demand amounting to Rs. 214.35 crore in 1,08,176 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
A: STAMP DUTY & REGISTRATION FEE			
1.	Inordinate delay in finalisation of cases	1,524	4.38
2.	Short realisation of stamp duty and registration fees due to undervaluation of properties/incorrect exemption from payment	2,876	3.02
3.	Loss due to misclassification of documents	137	1.22
4.	Loss on instruments executed in favour of societies	59	0.59
5.	Others	384	0.95
Total		4,980	10.16
B: ENTERTAINMENT DUTY			
1.	Non-recovery of entertainment duty	153	0.11
2.	Non/short deposit of entertainment duty by the proprietors of VCRs and VCPs	348	0.11
3.	Incorrect exemption from payment of entertainment duty	68	0.01
4.	Others	287	0.31
Total		856	0.54
C: LAND REVENUE			
1.	Non-registration of revenue recovery certificates	1,914	14.35
2.	Non-recovery of arrear of revenue	2,256	6.34
3.	Non-realisation of process expenses	2,928	4.53
4.	Non-raising of demands for diversion rent premium and fine/penalty	19,957	2.93
5.	Loss of revenue due to non-renewal of <i>nazul</i> lands	838	0.50
6.	Others	74,447	175.00
Total		1,02,340	203.65
Grand total		1,08,176	214.35

During the year 2006-07, the concerned departments accepted underassessment of tax in 1,12,553 cases involving Rs. 291.79 crore, of which 1,04,635 cases involving Rs. 205.12 crore were pointed out during 2006-07 and the rest in the earlier years. An amount of Rs. 24.20 crore had been recovered in 2,893 cases.

A few illustrative cases involving Rs. 3.63 crore are mentioned in this chapter.

A. STAMP DUTY AND REGISTRATION FEE

5.2 Non-reimbursement of stamp duty and registration fee

As per the Government notification dated 1 September 1989, stamp duty and registration fee leviable on lease/sale deeds, executed to acquire land in favour of the members of a family displaced on account of *Narmada* Valley Development Project (NVDP) is to be reimbursed by the *Narmada* Valley Development Authority (NVDA) to the Registration Department within the same financial year in which the registration of sale/lease deed takes place. Further, according to the notification dated 12 July 2002, the reimbursement shall be made on the basis of the demand letter produced by the sub-registrar (SR).

Test check of the records of eight sub registrar (SR) offices¹ between September 2006 and August 2007 revealed that 341 sale deeds were executed in favour of persons displaced on account of NVDP during September 2004 to March 2007. But NVDA had not reimbursed the stamp duty and registration fee of Rs. 1.29 crore to the Government. Even the demand letters for reimbursement were not issued by the SRs to NVDA. This resulted in non-realisation of revenue of Rs. 1.29 crore.

The matter was reported to the Inspector General of Registration (IGR) and the Government between October 2006 and March 2007. The IGR stated in June 2007 that the demand notices for reimbursement had been issued to the concerned department. SR, Manavar (Dhar) further stated in August 2007 that amounts totalling Rs. 27.17 lakh had been recovered till March 2007. Reply of the Government has not been received (January 2008).

5.3 Non-realisation of revenue due to misclassification of instruments

Under the Indian Stamp Act, 1899, stamp duty on instruments is leviable as per their classification and at the rates specified in schedule I-A of the Act.

Test check of the records of four² SR offices between August 2006 and February 2007 revealed that lower rates of stamp duty were applied on six instruments registered between April 2005 and January 2006, due to misclassification of the instruments. The misclassification and incorrect application of rates resulted in short realisation of stamp duty and registration fee of Rs. 71.57 lakh as mentioned below:

¹ Badwani, Dharampuri (Dhar), Dewas, Indore, Kukshi (Dhar), Maheshwar (Khargone) Manawar (Dhar) and Tikari (Khargone).

² Bhopal, Dewas, Gwalior and Jabalpur.

(Rupees in lakh)

Sl. No.	Name of the SR	Date of execution Amount of consideration	Nature of observation	Amount of stamp duty and registration fee leviable levied	Amount of stamp duty and registration fee levied short
1.	SR Bhopal	<u>27.4.2005</u> 1,600	Settlement ³ deed was classified as will ⁴	<u>64.51</u> Nil	64.51
2.	SR Dewas	<u>2.2.2006</u> 35.84	Sale deed ⁵ was classified as power of attorney ⁶	<u>3.17</u> 0.74	2.43
3.	SR Jabalpur	<u>28.12.2005</u> 35.92	Compound ⁷ document was classified as release ⁸ deed	<u>3.45</u> 0.29	3.16
4.	SR Gwalior	<u>12.1.2006</u> 5.54	Sale deed was classified as surrender deed	<u>0.48</u> Nil	0.48
5.	SR Gwalior	<u>30.1.2006</u> 5.47	Gift deed ⁹ was classified as partition ¹⁰ deed	<u>0.54</u> 0.07	0.47
6.	SR Jabalpur	<u>27.9.2005</u> 8.60	Gift deed was classified as settlement deed	<u>0.76</u> 0.24	0.52
Total		1,691.37			71.57

After the cases were pointed out between August 2006 and February 2007, the SR, Gwalior stated that these cases have been registered in the Court of Collector of Stamps in August 2007 and orders for recovery had been issued in two cases. Reply in the remaining cases has not been received.

The matter was reported to the IGR and the Government between September 2006 and April 2007. The IGR stated in June 2007 that the cases had been registered and action for disposal was being taken.

³ Any non-testamentary disposition in writing of movable or immovable property made for the purpose of distributing property of the settler among his family.

⁴ A legal statement of a person's wishes concerning the disposal of his or her property.

⁵ The transaction where the transfer of immovable property is absolute.

⁶ A document authorising a person to act on behalf of the owner.

⁷ Any instrument comprising or relating to several distinct matters.

⁸ A deed whereby a person renounces a claim upon any other person or against any specified property.

⁹ Instrument of not being a settlement, will or transfer.

¹⁰ Any instrument by which the co-owners of any property divide or agree to divide such property in several parts.

5.4 Short realisation of revenue due to undervaluation of properties

The Indian Stamp Act, 1899, requires market value of the property to be specified in any deed of transfer of properties for determining the stamp duty and registration fee leviable. The instruments are liable to stamp duty at the rates prescribed in the Act on the basis of the nature and value of properties of each instrument. The SR is required to refer the undervalued cases¹¹ to the Collector of Stamps before registering the documents.

Test check of the records of the four¹² SRs revealed that in 22 sale deeds registered between April 2005 to January 2006, the market value of the property was undervalued as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the SR	No. of documents	Value of the property assessed by the department	Value as per the guideline	Short realisation of stamp duty & registration fees
1.	SR Jabalpur	3	26.23	56.64	1.32
2.	SR Indore	1	4.80	7.74	0.43
3.	SR Gwalior	7	27.05	94.56	3.84
4.	SR Bhopal	11	264.43	353.85	7.69
Total		22	322.51	512.79	13.28

The undervaluation of properties resulted in short levy of stamp duty and registration fees of Rs. 13.28 lakh.

After the cases were pointed out, the IGR stated in June 2007 that all the 22 documents were registered in the court of the Collector of Stamps and action for finalisation of the cases was in progress.

5.5 Short realisation of revenue in instruments executed by/in favour of co-operative housing societies

As per the Government notification dated 24 October 1980, instruments executed in favour of primary co-operative housing societies for acquisition of land for housing purposes are exempted from payment of stamp duty. The department directed in August 2001 that all such cases should be reviewed where exemption from payment of stamp duty on conveyance deeds were granted to societies for the purchase of land for housing purposes and where later on such land was used for a purpose other than housing and the stamp duty and registration fees so exempted should be recovered.

¹¹ Cases where the value shown in the document is less than the value arrived at as per the rates given in the guidelines.

¹² Bhopal, Gwalior, Indore and Jabalpur.

Test check of the records of the SR offices at Indore and Gwalior revealed that land valued as Rs. 1.42 crore purchased between May 1997 to October 2003 by six primary co-operative housing societies for housing purposes through 33 instruments, were not utilised for housing purpose of the members of the society and subsequently sold between April 2005 to March 2006 to persons other than the members of the societies. Exemption of stamp duty and registration fee of Rs. 12.66 lakh granted at the time of purchase, therefore, become recoverable. However, action to recover the amount was not taken.

After the cases were pointed out between June 2006 and February 2007, the IGR stated that all the cases had been registered in the court of Collector of Stamps for revaluation and action for disposal was in progress.

The matter was reported to the Government in May 2007; their reply has not been received (January 2008).

5.6 Short realisation of stamp duty and registration fees in trade quarries

The Mineral Resources Department issued instructions in March 1993 and October 1994, reiterated by the IGR (May 2005), that on registration of agreements of trade quarries, the amount stipulated in the auction of a quarry for the entire period whether payable in lumpsum or in yearly instalments, is to be treated as premium and stamp duty at eight *per cent* is to be levied on it under the Indian Stamp Act, 1899. Further, registration fees at 75 *per cent* of the stamp duty is also leviable under the Registration Act, 1908.

Test check of the records of three¹³ SRs between June 2006 and February 2007 revealed that 33 trade quarries were auctioned to private parties for two years between July 2004 to March 2007. At the time of registration of the agreements, the department had levied Rs. 6.52 lakh and Rs. 4.89 lakh as stamp duty and registration fees respectively on consideration of only one year against the leviable amount of Rs. 13.01 lakh and Rs. 9.75 lakh for two years on the auction amount of trade quarries. This resulted in short levy of stamp duty of Rs. 6.49 lakh and registration fee of Rs. 4.86 lakh.

After the cases were pointed out between June 2006 and March 2007, the IGR stated in June 2007 that out of 33 cases, 15 had been finalised and recoveries totalling Rs. 1.03 lakh had been made in three cases. Report on recovery in 30 cases has not been received. (January 2008).

The matter was reported to the Government in May 2007; their reply has not been received (January 2008).

¹³ Chitrangi (Sidhi), Gwalior and Shivpuri.

5.7 Short realisation of stamp duty and registration fees in lease deeds

According to the provisions of the Indian Stamp Act, 1899, where the lease deed is executed for a period exceeding 30 years or there is no specified period in the lease deed, such deeds are liable to stamp duty at eight *per cent* of the market value of the property as applicable to conveyance deeds.

Test check of the records of SR Gwalior revealed that two lease deeds were executed/registered in January 2006 for a period of more than 30 years but the department while registering the document levied stamp duty of Rs. 24,000 and registration fee of Rs. 18,000 against the leviable stamp duty of Rs.6.70 lakh and registration fee of Rs. 67,000 treating the lease period as not exceeding 30 years. This resulted in short levy/realisation of stamp duty and registration fee of Rs. 6.95 lakh.

After the cases were pointed out in January 2007, the SRs stated in August 2007 that these cases had been registered in the court of Collector of Stamps in August 2007 and orders for recovery totalling Rs. 6.29 lakh had been issued.

The matter was reported to the IGR and the Government in March 2007; their reply has not been received (January 2008).

B. ENTERTAINMENT DUTY

5.8 Non-recovery of entertainment duty from cable operators

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936, and Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999, provide that every cable operator providing entertainment through cable service shall pay entertainment duty at the prescribed rates.

Test check of the records of four district excise offices¹⁴ between April 2006 and October 2006 revealed that entertainment duty of Rs. 7.16 lakh from 90 cable operators providing entertainment through cable service during April 2003 to September 2006 was neither recovered nor were demand notices issued by the department. This resulted in non-realisation of entertainment duty of Rs. 7.16 lakh.

After the cases were pointed out, the district excise officer (DEO), Khargone stated (April 2006) that the action for recovery would be taken. DEO, Shajapur stated (July 2006) that action for recovery was being taken and rest of the DEOs stated (September 2006) that action for recovery was in progress.

The matter was reported to the Excise Commissioner and the Government between July 2006 to May 2007; their reply has not been received (January 2008).

¹⁴ Betul, Damoh, Khargone and Shajapur.

C. LAND REVENUE

5.9 Non-levy/recovery of process expenses

Under the provisions of the Madhya Pradesh *Lokdhan Adhiniyam*, 1987 and the rules made thereunder, process expenses at the rate of three *per cent* of the principal amount recovered from the defaulters shall be deposited in the treasury by challan.

Test check of the records of 12 *tahsils*¹⁵ between October 2006 and March 2007 revealed that process expenses of Rs. 42.91 lakh recoverable on principal amount of Rs. 14.30 crore recovered against revenue recovery certificates (RRCs) issued between October 2001 to September 2006 were neither included in the demand by the recovery officers nor were deposited by the bank. This resulted in non-levy/realisation of Rs. 42.91 lakh.

After the cases were pointed out, all the *tahsildars* stated between October 2006 and March 2007 that necessary action for recovery of process expenses would be taken.

The matter was reported to the Commissioner, Land Records and the Government between December 2006 and April 2007; their reply has not been received (January 2008).

5.10 Non-raising of demand for diversion rent, premium and fine

According to the Madhya Pradesh Revenue Book Circular (RBC) issued under the MP Land Revenue Code, 1959, (MPLR Code) the sub-divisional officer (Revenue) shall intimate to the concerned *tahsildar*, the dues recoverable from each assessee in a statement called B-1. This statement consists of the demand for premium, diversion rent and fine imposed under the penal provisions of MPLRC. The *tahsildar* on receipt of statement B-1 is to effect the recovery of dues through the *patwaris*.

Test check of the *Diara* register¹⁶ maintained in the Collectorate, Ratlam (diversion section) in January 2007 revealed that diversion rent, premium and fine totalling Rs. 37.31 lakh was due in 108 cases of 28 villages for the period between 2004-05 and 2005-06. The Collectorate diversion section did not prepare the statement form B-1 for onward transmission to the *Tahsildar* Ratlam for raising the demand. This resulted in non-realisation of Rs.37.31 lakh.

After the cases were pointed out in January 2007, the officer incharge stated that the B-1 statement would be prepared and sent to the concerned *tahsildars* for effecting recovery.

The matter was reported to the Commissioner, Land Records and Settlement and the Government between February and March 2007; their reply has not been received (January 2008).

¹⁵ Balaghat, Betul, Dhar, Jawad (Neemuch), Jawra (Ratlam), Kareli (Narsinghpur), Mhow (Indore), Narsingharh (Rajgarh), Ratlam, Shajapur, Shujalpur (Shajapur) Timarni (Harda).

¹⁶ Register in which the revenue cases are registered for proceedings.

5.11 Non-recovery of collection charges

According to the *Panchayat Raj Adhiniyam*, 1993, and the instructions (June 1999) issued thereunder, the amount collected by the Government on account of land revenue, cess, fees and other taxes shall be credited to the '*Panchayat Raj Nidhi*' after deducting 10 per cent of the amount collected as collection charges.

Test check of the records of two¹⁷ tahsils between October 2006 and November 2006 revealed that revenue of Rs. 180.90 lakh collected between October 2004 and September 2006 were credited by the *tahsildars* to *Panchayat Raj Nidhi* without deducting collection charges of Rs. 18.09 lakh. This resulted in non-recovery of the revenue.

After the cases were pointed out, the *Tahsildar*, Shajapur accepted in October 2006 that the collection charges were not deducted and stated that they would be deducted in future. Reply in the remaining case has not been received.

The matter was reported to the Commissioner, Land Records and Settlement and the Government between December 2006 and January 2007; their reply has not been received (January 2008).

5.12 Non-assessment of *panchayat* cess on diversion rent

The Madhya Pradesh *Panchayati Raj Adhiniyam*, 1981, provides that *panchayat cess* is leviable for each revenue year on every tenure holder and Government lessee in respect of the land held by him in *gram panchayat* area at the rate of 50 paise per rupee of land revenue or rent assessed for each piece of land. The cess is leviable in addition to the land revenue or rent. Under the MPLR Code, diversion rent is included in the definition of land revenue. Hence, *panchayat cess* is leviable on the diversion rent also.

Test check of the records of two *tahsils*¹⁸ revealed that in 152 cases of 72 villages, *panchayat* cess amounting to Rs. 7.16 lakh for the years 2004-05 and 2005-06 was not levied on diversion rent of Rs. 14.32 lakh in respect of land pertaining to *gram panchayat* areas. This resulted in non-levy of Rs. 7.16 lakh.

After the cases were pointed out, the *tahsildars* stated in January 2007 that action to raise the demand would be taken.

The matter was reported to the Commissioner, Land Record and Settlement and the Government (March 2007); their reply has not been received (January 2008).

5.13 Non-renewal of temporary leases of *nazul* plots

According to the instructions issued by the Government (August 1994) temporary lease of *nazul* land should be renewed on its expiry on the basis of the applications of the pre-occupants. As per the Revenue Book Circular, the premium and ground rent will be calculated on the basis of the average market value of the land as mentioned in the guideline of the previous year.

¹⁷ Mhow (Indore) and Shajapur.

¹⁸ Jawad (Neemuch) and Ratlam.

Test check of the records of the Collectorate (*Nazul*), Ratlam in January 2007 revealed that in 10 cases of temporary leases the renewal of leases were due in April 2004. The lessees had continued to occupy the land unauthorisedly. The department had neither renewed the aforesaid leases nor took any action for eviction of the lessees. This resulted in non-levy of revenue amounting to Rs. 5.56 lakh.

After the cases were pointed out, Joint Collector (*Nazul*) Ratlam stated in January 2007 that the renewal of temporary lease cases was being processed and recovery would be made.

The matter was reported to the Commissioner, Land Records and Settlement and the Government (October 2007); their reply has not been received (January 2008).